

## THE PREAMBLE

*“The care of human life and happiness, and not their destruction, is the first and only legitimate object of good government.” **Andrew Jackson.***

*“The stewardship of public officers is a serious and sacred trust.... Public office means serving the public and nobody else.” **Franklin Delano Roosevelt.***

The basic mandate of government is to provide for the common good and welfare of its citizens. The public has entrusted this mandate to the officials that make up the various governmental bodies. In recognizing this mandate, elected officials, their appointees, and other public officials owe the public a duty to give quality service, selfless loyalty and fair dealing.

In providing for the common good of the citizens of Shelby County, all segments of Shelby County Government are committed to excellence in providing innovative service. The foundation upon which the commitment to excellence stands is the absolute requirement that public officials of Shelby County Government adhere to the highest ethical standards. Indeed, the proper function of a democratic government requires that county officers and employees be independent, impartial and accountable to the people of Shelby County. The basic function of county government requires the avoidance of conflict of interest or use of position for personal gain. It must always be remembered that any action taken by a public official which tends to weaken public trust and confidence undermines the foundation of government.

All agree that public officials must perform their duties in ways that foster public trust. However, basic human nature and interaction between and among individuals and entities produces unlimited circumstances that result in differing opinions and views about ethical behavior. This Code of Ethical Conduct is intended to provide guidance in finding answers to the endless ethical questions that arise. In addition, the principles contained within this Code also apply to the day-to-day conduct of all public officials of Shelby County.

It must be recognized that this Code is a living document. Interpretation of its terms will necessarily evolve as its terms are applied to the infinite circumstances faced by our public officials, as they carry out their duties.

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# **CODE OF ETHICAL CONDUCT FOR EMPLOYEES OF SHELBY COUNTY, TENNESSEE**

## **I CONFLICTING INTERESTS AND IMPARTIALITY IN PERFORMING OFFICIAL DUTIES**

1. **Conflict of Interest:** Every employee owes a duty to Shelby County to perform his or her duties in accordance with the Constitution, and laws of the State of Tennessee, Shelby County Charter and established Shelby County policies. A conflict of interest arises whenever an individual's ability to perform his or her duties in accordance with law and policy is impaired by his or her direct or indirect interest.
  - a. A conflict involving direct interest exists when the employee uses public office or public assets for his or her own private gain.
  - b. An indirect conflict exists when the employee uses public office or public assets other than in accordance with law and policy for the gain or benefit of another.
  - c. The employee should avoid all direct conflicts. In the case of direct conflict, the employee should report the conflict as directed in Section VII of this Code, remove himself or herself from the conflict situation by recusal from the decision making process or by divestiture of the interest giving to the conflict.
  - d. In the case of an indirect conflict, the employee should report the indirect conflict as directed in Section VII of this Code and take such steps as the supervisor deems necessary to avoid the impropriety.
2. **Who is and is not an Employee for Purposes of this Code:**
  - a. An employee is any individual employed by Shelby County, including all Civil Servants, and Elected Officials and their appointees.
  - b. The term employee does not include contractees, grantees, and consultants and their employees who receive funding from the County.
  - c. Nothing in this Code shall prohibit a relative of a Shelby County employee from accepting a position of employment with Shelby County Government. However, in no case shall an employee be placed in a managerial or supervisory position over a relative that is employed in County government.
3. **Prohibited Financial Interest:** An employee shall not acquire or hold any financial interest that he or she is prohibited from acquiring or holding by Shelby County Charter, Shelby County Personnel Policy, or other law, or by determination of conflict under this Code.

4. **Extraordinary Payments from Former Employers:** An employee shall be disqualified for one year from participating in any matter in which a former employer is a party if he received an extraordinary payment from that employer prior to entering County service. One-year period begins to run from the date the payment was received. Extraordinary payment means any item, including cash or an investment interest, with a value in excess of \$5,000.
5. **Public Financial Disclosure:**
  - a. Each elected or appointed County employee is required to file annually with the Administrator of Human Resources a report of outside income, assets, debts, liabilities and transactions of \$5,000 or more, or financial interest in any business exceeding 5% for the employee or his or her spouse. Mortgages on any primary personal residence, loans secured by automobiles, household furniture or appliances are excluded from this provision.
  - b. The Administrator of Human Resources shall provide to each elected or appointed County employee a public financial disclosure report form on or before November 1<sup>st</sup> of each year. Thereafter, all completed disclosure reports shall be filed with the Administrator of Human Resources by March 31<sup>st</sup> of each year.

## **II GIFTS FROM OR TO OUTSIDE SOURCES**

1. **Solicitation or Acceptance of a Gift:** An employee shall not, directly or indirectly, solicit or accept a gift:
  - a. Given because of the employee's official position or
  - b. From a prohibited source.
2. **Providing a Gift:** Except as provided in this Code, an employee shall not, directly or indirectly, provide a gift:
  - a. Because of the employee's official position or
  - b. To a prohibited source.
3. **Prohibited Source:** Means any person or organization who is seeking official action, doing business with or seeking to do business with, or conducting activities regulated by Shelby County.
4. **What is and is not a Gift:**
  - a. Gift includes any gratuity, favor, discount, entertainment, hospitality, loan forbearance, or other item having monetary value including cash of any amount.

- b. Gift does not include:
  - (1) Items of food and refreshments, such as meals, soft drinks, coffee, etc., in connection with an employee's attendance at a meeting or other function relating to his or her official duties;
  - (2) Greeting cards and items of small intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation;
  - (3) Loans on terms generally available to the public;
  - (4) Opportunities and benefits, including favorable rates and commercial discounts available to the public or to a class consisting of County employees;
  - (5) Rewards and prizes given to competitors in contests or events, including random drawings open to the public unless the employee's entry into the contest or event is required as part of his/her official duties;
  - (6) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer;
  - (7) Anything which is paid for by the County or secured by the County under County contract;
  - (8) Any gift accepted by the County under specific legal authority, including:
    - (a) Travel, subsistence, and related expenses in connection with an employee's attendance at a meeting or similar function relating to his or her official duties which takes place away from his or her duty station;
    - (b) Other gifts provided in-kind which have been given or accepted by the County under any gift policy;
  - (9) Anything for which market value is paid by the employee.

**5. Exceptions to general prohibition on acceptance of gift from prohibited source or given because of the employee's official position:**

- a. Gifts of \$50.00 or less per occasion, provided that the total value of such gifts received from one person or organization shall not exceed \$100.00 per calendar year. Provided however that:
  - (1) Cash or investment interests such as stocks, bonds, Certificates of Deposit, and similar negotiable instruments shall never be allowed.
  - (2) If the proposed gift exceeds \$50.00, employee cannot pay difference between value of gift and \$50.00.
- b. Gifts based on family or personal friendship rather than the employee's position.

- c. Reduced membership or other fees for participation in a n organization's activities offered to all Government employees where the only restriction on membership relates to professional qualifications. (Ex. Bar dues).
- d. Awards, honoraria and honorary degrees
  - (1) Award, other than cash or investment interest, that is given for meritorious public service or achievement by a person or organization that does not have interests which may be substantially affected by the performance or nonperformance of the employee's official duties.
    - (a) Gifts, honoraria or awards of cash or investment interest may be accepted upon determination that the award is made as part of an established program of recognition under which awards have been made on a regular basis.
    - (b) Honoraria or honorary degree from an institution of higher education may be accepted upon determination that the award would not raise a question about the employee's impartiality.
    - (c) Meals and entertainment given pursuant to the presentation of an award or honorary degree as permitted above.
- e. Gifts of meals, lodgings, transportation, and other benefits based on outside business or employment relationships:
  - (1) Resulting from the business or employment activities of an employee's spouse when it is clear that such benefits have not been offered or enhanced because of the employee's official position;
  - (2) Resulting from an employee's outside business or employment activities when it is clear that such benefits have not been offered or enhanced because of his or her official status; or
  - (3) Customarily provided by a prospective employer in connection with bona fide employment discussions, consistent with Section VI of this Code.
- f. Gifts in connection with political activities as permitted by Federal, State or local law.
- g. Widely attended gatherings and other events:
  - (1) An employee assigned to speak, participate or present information on behalf of Shelby County at a conference or other event may accept an offer of free attendance at the event and ordinary and reasonable travel and lodging expenses associated with the event when provided by a sponsor or organization putting on the event;

- (2) An employee may accept free attendance at a widely attended gathering when it has been determined that his or her attendance is in the interest of the County because it will further County programs or operations;
- (3) Attendance by an employee cannot be underwritten by anyone other than the County, a sponsor or organization putting on the event.
- (4) Any honorarium ordinarily given by a charitable, scientific, religious, or educational institution shall not be considered a prohibited gift under this policy.

**6. Disposition of Prohibited Gifts:**

- a. Employees receiving a prohibited gift:
  - (1) Must return any prohibited gift received or pay the donor fair market value;
  - (2) If the prohibited gift is perishable, donate to charity or share with other employees.
- b. Reciprocation by the employee shall not constitute reimbursement as required in this section.
- c. After the gift has been disposed of, the employee shall communicate in writing with the donor informing the donor of the County prohibition against gifts.
- d. It is recognized that under certain circumstances, refusal to accept, or returning a prohibited gift may be awkward or contrary to the interests of Shelby County. (Ex. customs related to national or inter-national business travel.) In those instances, the employee must provide written disclosure of circumstances surrounding receipt of the gift to the County Attorney within thirty days.

### **III GIFTS BETWEEN EMPLOYEES**

**1. General Standards:**

- a. **Giving Gifts**—Except as otherwise provided in this Code, an employee may not:
  - (1) Directly or indirectly give a gift to an official superior or subordinate, or
  - (2) Solicit a contribution for a gift from another employee.
- b. **Accepting Gifts**—Except as otherwise provided, an employee may not, directly or indirectly, accept a gift from an official superior or a subordinate.
- c. An employee shall not coerce the offering of a gift from any other employee.

## **2. General Exceptions:**

- a. On an occasional basis, including any occasion on which gifts are traditionally given or exchanged, the following may be given to or accepted from another employee:
  - (1) Items other than cash with market value of \$50.00 or less;
  - (2) Items such as food and refreshments shared in the office among several employees;
  - (3) Personal hospitality provided at a residence, which is of the type and value customarily provided by an employee to personal friends;
  - (4) Items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions;
  - (5) In emergency situations such as serious illness or family tragedy, voluntary contributions of cash, food or other appropriate gift given as part of solicitations from fellow employees.
- b. A gift appropriate to the occasion may be given to an official superior or accepted from a subordinate or other employee receiving less pay:
  - (1) In recognition of infrequently occurring occasions of personal significance such as marriage, illness or the birth or adoption of a child;
  - (2) Upon occasions that terminate a subordinate-official superior relationship, such as retirement, resignation, or transfer.
- c. Voluntary contributions of a nominal amount may be solicited from fellow employees for an appropriate gift to an official superior and an employee may make a voluntary contribution of a nominal amount to an appropriate gift to an official superior:
  - (1) On a special infrequent occasion as described in (a) or (b) above, or
  - (2) On an occasional basis, for items such as food and refreshments shared among several employees.
- d. Any award, reward or gift given to an employee under any County award policy.

## **IV MISUSE OF POSITION**

- 1. **Use of Public Office for Private Gain:** An employee shall not use his or her public office for his or her own private gain or the gain or benefit of friends or relatives.



- a. **Inducements or coercion of benefits**—An employee shall not use or permit the use of his or her position, title or authority associated with his or her public office in a manner that is intended to coerce or induce another person to provide any personal benefit to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.
  - b. **Endorsements**—A County employee shall not use or permit the use of his or her County position, title or any authority associated with his or her public office to endorse any product, service or enterprise, except:
    - (1) In furtherance of the County Charter, policy or other legal authority to promote products, services, or enterprises;
    - (2) As the result of recognition for achievement given under a County program; or
    - (3) In furtherance of any legitimate charitable cause.
2. **Use of Nonpublic Information:**
- a. **Prohibition**—An employee shall not engage in a financial transaction using nonpublic information, or allow the improper use of nonpublic information to further his/her own private interest.
  - b. Nonpublic information is information that the employee gains by reason of County employment and that he knows has not been made available to the general public, including information that he knows:
    - (1) Is legally exempt from disclosure;
    - (2) Is designated as confidential by law, regulation, or policy, or
    - (3) Has not been disseminated to the general public and is not authorized to be made available to the public.
3. **Use of County Property and Funds:**
- a. **Duty to Protect**—An employee has a duty to protect and conserve County property and funds and shall use such property and funds, or allow its use, only for purposes authorized in accordance with law or County policy.
  - b. **Just Financial Obligations**—Within a reasonable amount of time, employees shall satisfy in good faith their just financial obligations incurred in official capacity as an employee of Shelby County.
4. **Use of Official Time:**
- a. **Use of an employee's official time**—An employee shall use official time in an honest effort to perform official duties.
  - b. **Use of a subordinates time**—An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or County policy.

**5. Fundraising Activities:**

- a. Fundraising means the raising of funds for a nonprofit organization through:
  - (1) Solicitation of funds or sale of items, or
  - (2) Participation in an event by an employee where any portion of the cost of attendance or participation may be taken as a charitable tax deduction.
- b. **Fundraising in an official capacity**—An employee may participate in fundraising in an official capacity if, in accordance with Federal, State or local law, he or she is authorized to engage in fundraising activity as part of his or her official duties and may use his or her official title, position, or authority. However, under no circumstances may a County employee participate in fundraising in an official capacity for his or her own private gain or for the private gain of a member of his or her family.
- c. **Fundraising in a personal capacity**—An employee may engage in fundraising in his or her personal capacity provided he or she does not:
  - (1) Personally solicit funds or other support from a subordinate or from any person known to the employee to have a conflict with the interests of County government,
  - (2) Use or permit the use of his or her official title to further the fundraising effort,
  - (3) Engage in fundraising activities on County property,
  - (4) Engage in any action that would otherwise violate State law, or the terms of this Code.
- d. **Political Fundraising**—An employee may engage in solicitation of funds or support from individuals or organizations only as permitted by Federal, State and local law, and Shelby County Charter.

**V OUTSIDE EMPLOYMENT**

- 1. **Conflicting Outside Employment and Activities:** An employee shall not engage in outside employment or any other outside activity that conflicts with his or her official duties. An activity conflicts with an employee's official duties:
  - a. If it is prohibited by statute, or by Shelby County Charter, Shelby or this Code;
  - b. If the employee's ability to perform the duties of his or her position would be substantially impaired by the employment or outside activity.

2. **Prior Approval for Non-Conflicting Outside Employment:** An employee shall obtain written prior approval from the Division Director or appointing authority before engaging in non-conflicting outside employment.
3. **Teaching, Speaking and Writing:**
  - a. Except as otherwise permitted in this Code, an employee shall not receive compensation from any source other than the County for teaching, speaking, or writing that relates to the employee's official duties.
  - b. Nothing in this section shall prohibit an employee from receiving an award or honorarium as provided in Section II 5d of this Code.
  - c. **Exception for teaching certain courses**—An employee may accept compensation for teaching a course requiring multiple presentations by the employee if the course is offered as part of:
    - (1) The regularly established curriculum of:
      - (a) An institution of higher education;
      - (b) An elementary school, or
      - (c) A secondary school, or
    - (2) A program of education or training sponsored or funded by Federal, State or local government.

## **VI SEEKING OTHER EMPLOYMENT**

1. **Disqualification While Seeking Employment:** If an employee is seeking outside employment, the employee shall not participate in any matter that has a direct effect on the financial interests of a prospective employer, unless the employee's participation is authorized in writing by Division Director or appointing authority.
2. **Interview Trips and Entertainment:** If a prospective employer who is a prohibited source offers to pay or reimburse an employee's travel expenses, or provide other reasonable amenities incident to employment discussions, the employee may accept such amenities in accordance with the provisions of Section I and II of this Code.

## **VII REPORTING POSSIBLE VIOLATIONS**

1. **Conflict of Interest Determination:** Ultimately, the County Attorney will determine the existence of any conflict of interest, and if necessary, recommend appropriate corrective action.

2. **Duty to Report:** All employees have a duty to report possible violations of the law, County policies or this Code.
3. **Disciplinary Action:** Appropriate disciplinary action, up to and including removal or termination, will be taken against any employee who:
  - a. Violates applicable laws, County policies, or this Code;
  - b. Retaliates against another employee for reporting a possible violation of this Code, or
  - c. Deliberately makes a false report against another employee.
4. **Reporting Procedure:** To report possible violations, an employee may, without fear of retaliation, contact any of the following:
  - a. Your Immediate Supervisor;
  - b. Your Division Director;
  - c. The Chief Administrative Officer of your office or division;
  - d. The Elected Official over your office;
  - e. The Administrator of Human Resources; or
  - f. The County Attorney.

# ANNUAL FINANCIAL DISCLOSURE REPORT

**NAME:** \_\_\_\_\_ **DEPARTMENT:** \_\_\_\_\_  
(Print)

Each Elected or Appointed Official will receive a Disclosure Report form during January of each year or upon beginning Shelby County service. Please answer all questions and return the completed form to the Administrator of Human Resources no later than March 31<sup>st</sup>.

**NOTE:** It is necessary to list any item only once on the reporting form.

- 1) Do you or your spouse have assets or outside annual income of \$5,000 or more?  
\_\_\_\_\_ No  
\_\_\_\_\_ Yes. If so, please indicate name and location of each asset or income source. (Exclude primary personal residence and personal automobiles, household furniture or appliances.)

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- 2) Do you or your spouse have any debts or liabilities of \$5,000 or more? (Exclude mortgage on any primary personal residence and loans for personal automobiles, household furniture or appliances.)  
\_\_\_\_\_ No  
\_\_\_\_\_ Yes. If so, please indicate to whom the debt is owed and its general nature.

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3) Have you or your spouse entered into any other financial transactions of \$5,000 or more in the past year?

\_\_\_\_\_ No

\_\_\_\_\_ Yes. If so, please indicate the general nature of the transaction and with whom it occurred.

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4) Do you or your spouse have a financial interest of 5% or more in any business?

\_\_\_\_\_ No

\_\_\_\_\_ Yes. If so, please indicate the general nature, name, address and nature of the interest in the business.

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I certify that the information provided above is true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
Department

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date